Cumulative Table of Cases Connecticut Appellate Reports Volume 179

(Replaces Prior Cumulative Table)

ASPIC, LLC v. Poitier	631
tion for prejudgment remedy; whether burden shifted to plaintiff to establish	
probable cause to believe that it would be successful on merits of cause of action	
and that it had engaged in fair dealing where defendant specifically pleaded	
breach of fiduciary duty defense and trial court found fiduciary relationship;	
whether trial court improperly failed to make any finding that plaintiff had met	
burden to show that there was probable cause that it would prevail in establishing	
transactions at issue were product of fair dealing; whether plaintiff was required	
to prove fair dealing by clear and convincing evidence or probable cause; whether	
trial court's finding that it could not make any prediction regarding fiduciary	
duty defense, without more, should have led to conclusion that plaintiff failed to	
meet burden to establish probable cause that it could prove fairness of transac-	
tions; whether, by granting prejudgment remedy in absence of any finding that	
plaintiff had met burden, trial court improperly placed burden of proving	
unfairness of transactions on defendant.	
American Eagle Federal Credit Union v . Shivers (Memorandum Decision)	902
Boykin v. State	175
Personal injury; defective highway; whether trial court improperly granted motion	
to dismiss for lack of subject matter jurisdiction; sovereign immunity; whether	
written notice of claim provided pursuant to state highway defect statute (§ 13a- 144) was patently defective; whether notice of claim provided sufficient informa-	
tion as to cause of injury.	
Brown v. Commissioner of Correction	358
Habeas corpus; whether habeas court abused its discretion in denying petition for	990
certification to appeal; claim that state violated petitioner's due process rights	
by suppressing material exculpatory evidence in violation of Brady v. Maryland	
(373 U.S. 83) when state allegedly failed to disclose to petitioner certain	
agreements with witnesses to bring their cooperation in petitioner's criminal	
trial to attention of court in their criminal proceedings; whether habeas court's	
finding that state disclosed agreements to petitioner prior to criminal trial was	
clearly erroneous; claim that state failed to disclose alleged agreements with	
witnesses to give them favorable treatment at bond hearings in exchange for their	
testimony; claim that state did not correct false testimony by witnesses at criminal	
trial; claim that petitioner's trial counsel was ineffective in failing to adequately	
cross-examine witnesses; whether petitioner demonstrated that he was prejudiced	
by failure of trial counsel to obtain transcripts of witnesses' bond hearings.	
Brown v . Shehadeh (Memorandum Decision)	906
Bruno v. HSBC Bank USA, N.A. (Memorandum Decision)	902
Castelino v . Fairview Condominium Assn., Inc. (Memorandum Decision)	902
Cinotti v. Bacoulis (Memorandum Decision)	903
Colon v. Commissioner of Correction	30
Habeas corpus; whether habeas court abused its discretion in denying petition for	
certification to appeal; whether habeas court abused its discretion in denying	
petition for writ of habeas corpus; claim that trial counsel rendered ineffective assistance by failing to adequately explain state's plea offer and by failing to	
oversee petitioner's cooperation with law enforcement in effort to reduce sentence;	
whether petitioner established that he was prejudiced by trial counsel's allegedly	
deficient performance.	
Dean v. Kahn	58
Declaratory judgment; implied easement; whether there was sufficient evidence in	00
record to support trial court's conclusion that implied easement existed over	
subject property in favor of plaintiff's property; whether trial court, on basis of	
circumstantial evidence presented, reasonably and logically could have inferred	
that parties to relevant conveyance intended to create implied easement and that	

property; whether trial court improperly considered, as matter of law, evidence	
of use of subject property other than use that existed at or close to time of	
conveyance; whether fact that parties to relevant conveyance expressly set forth	
in deed common driveway and mutual boundary easements precluded trial court	
from finding existence of additional easement by implication.	
DeJesus v. Commissioner of Correction (Memorandum Decision)	902
Deutsche Bank National Trust Co., Trustee v. Savvoulides (Memorandum Decision)	901
Doctor's Associates, Inc. v. Searl	577
Arbitration; application to confirm arbitration award; whether trial court should	011
have applied federal law in determining timeliness of motion to vacate arbitration	
award; whether federal law governed procedures used to enforce arbitration clause	
in parties' franchise agreement and, accordingly, procedure for moving to vacate	
arbitration award; whether defendants were entitled to hearing to determine	
whether they timely moved to vacate arbitration award under statutory time	
limit provided for in federal law.	
Doyle v. Aspen Dental of Southern CT, PC	485
Dental malpractice; motion to dismiss for lack of personal jurisdiction; whether	
opinion letter of similar health care provider was legally insufficient under	
statute (§§ 52-190a [a] and 52-184c) where author of opinion letter was not	
board certified, trained and experienced in same specialty as defendant oral	
surgeon; claim that plaintiff could rely solely on website of Department of Public	
Health to determine dentist's credentials as evidence of good faith effort to attach	
opinion letter by similar health care provider.	0
Doyle v. Universal Underwriters Ins. Co	9
judgment and determined that doctrine of collateral estoppel barred relitigation	
of amount of damages awarded to plaintiff in binding arbitration proceeding;	
whether issue of total compensatory damages resulting from motor vehicle colli-	
sion was actually litigated and necessarily determined in prior binding arbitra-	
tion proceeding.	
Estela v. Bristol Hospital, Inc	196
Accidental failure of suit statute (§ 52-592 [a]); whether trial court abused its	
discretion in determining applicability of § 52-592 (a); whether it was proper	
for trial court to address applicability of \S 52-592 (a) through motion to bifurcate;	
claim that defendant waived right to challenge applicability of § 52-592 (a) by	
failing to previously raise statute of limitations as special defense; whether trial	
court applied correct standard in determining applicability of § 52-592 (a) to	
present action; whether trial court's findings as to conduct that led to judgment	
of nonsuit in prior action were clearly erroneous; reviewability of claim that	
§ 52-592 (a) applies to any judgment of nonsuit.	440
Fagan v. Stamford	440
in approving 50 percent disability pension to plaintiff pursuant to city's charter;	
whether record contained substantial evidence to support board's determination	
that plaintiff did not meet requirements for enhanced disability pension under	
collective bargaining agreement; whether board acted arbitrarily, capriciously,	
or in abuse of its discretion in denying request for board to reconsider plaintiff's	
application for 75 percent disability pension under collective bargaining	
agreement.	
Fields v . Commissioner of Correction	567
Habeas corpus; ineffective assistance of counsel; claim that habeas court erred in	
concluding that petitioner was not prejudiced by trial counsel's deficient perfor-	
mance; whether habeas court properly found that petitioner did not establish	
reasonable probability that, had trial counsel conveyed subject plea offer to him,	
he would have accepted it; credibility determinations; whether habeas court's	
credibility determination rejecting petitioner's testimony that he would have	
accepted offer was distinct from its affirmative finding that petitioner would	
have rejected it. Finney v. Cameron's Auto Towing Repair	301
Contracts; whether trial court properly determined that defendant was entitled to	106
summary judgment on complaint; whether defendant established that there was	
no genuine issue of material fact as to its right to prevail on claim that it breached	
contract to repair plaintiff's vehicle and that unpaid storage fees that accrued	
resulted from its delay in giving plaintiff estimate of cost to repair vehicle;	

whether trial court erred in granting motion for summary judgment in favor of defendant on its counterclaim; whether defendant failed to state any basis on which it was entitled to judgment on counterclaim	
Gamble v. Commissioner of Correction Habeas corpus; claim that appellate counsel provided ineffective assistance by failing to raise claim of insufficient evidence on direct appeal; whether habeas court properly concluded that petitioner failed to prove that he was prejudiced by performance of appellate counsel; whether it was reasonably probable that petitioner would have prevailed on sufficiency of evidence claim on direct appeal; whether there was sufficient evidence to support petitioner's conviction of manslaughter as accessory under concert of action theory; whether there is meaningful distinction between principal and accessorial liability as matter of law; claim that evidence supported only conviction as principal shooter and not as accessory; whether doctrine of collateral estoppel applied to review of sufficiency of evidence; whether petitioner's acquiitals on other charges precluded court from examining all evidence presented at trial; inconsistent verdicts.	285
General Linen Service Co. v. Cedar Park Inn & Whirlpool Suites	527
Hazel v. Commissioner of Correction. Habeas corpus; claim that trial counsel provided ineffective assistance by failing to present codefendant's testimony; whether habeas court properly concluded that petitioner failed to prove the he was prejudiced by trial counsel's failure to present testimony of codefendant; whether habeas court correctly determined that there was not reasonable probability that, had petitioner's trial counsel called codefendant to testify, outcome of petitioner's criminal trial would have been different; whether failure of trial counsel to call witness can constitute ineffective assistance without showing that witness' testimony would be helpful.	534
Heredia v. Commissioner of Correction (Memorandum Decision)	906
HSBC Bank USA, N.A. v. Bliss (Memorandum Decision)	904 903
Lane v. Cashman	394
Zoning; whether trial court improperly struck revised third special defense alleging that defendants had legally protected nonconforming right to use their property as farm; claim that question of whether any constitutionally protected nonconforming use of property existed was beyond scope of zoning board and, thus, constituted exception to exhaustion doctrine that permitted defendants to bypass available administrative relief; claim that trial court improperly granted motions	594
to preclude certain evidence; failure of defendants to adequately analyze how trial court rulings granting motions to preclude certain evidence likely affected result of trial.	
Martin v . Commissioner of Correction	647
Habeas corpus; claim that petitioner was denied due process right to fair trial as result of admission at criminal trial of testimony regarding comparative bullet lead analysis, which has subsequently been discredited; whether this court was	
left with belief that but for challenged testimony, petitioner most likely would not have been convicted; whether habeas court properly rejected claim that prior habeas counsel was ineffective in handling of claim regarding lead analysis	
evidence; whether petitioner established that prior habeas counsel's performance was deficient or that he was prejudiced thereby.	
Was deficient or that he was prejudiced thereby. Megos v. Ranta	546
Personal injury; whether trial court improperly granted motion to dismiss action brought pursuant to accidental failure of suit statute (§ 52-592) due to failure of	010
plaintiff to commence original action prior to expiration of statute of limitations; whether, pursuant to plain language of statute (§ 52-62 [a]), service on Commissioner of Motor Vehicles has same validity as service on nonresident defendant	
personally; whether, by timely serving original action on commissioner, plaintiff served defendant personally and thereby commenced original action prior to	
running of statute of limitations; whether requirements of subsection (c) of § 52-62 that process be served both by service on commissioner and by mailing copy	

to defendant at last known address via certified mail addresses sufficiency of	
service rather than commencement of civil action.	
Morgan v. Commissioner of Correction (Memorandum Decision)	906
Northeast Family Federal Credit Union v . Jean (Memorandum Decision)	904
Omar v. Commissioner of Correction	696
but for trial counsel's decision to expose petitioner's criminal history to jury.	
PHH Mortgage Corp. v. Stock (Memorandum Decision)	905
Pettiford v. State	246
Negligence; comparative negligence; claim that plaintiff was entitled to new trial because trial court's comparative negligence calculus rested on its erroneous determination that unmarked crosswalk did not exist in area where plaintiff was struck by defendant's vehicle; construction of statutory (§ 14-297 [2]) definition of crosswalk; whether plaintiff failed to demonstrate how claimed error regarding unmarked crosswalk would have altered court's judgment; whether trial court should have rendered judgment on merits rather than dismissed action.	
Recycling, Inc. v. Commissioner of Energy & Environmental Protection	127
Administrative appeal; whether trial court improperly dismissed administrative appeal from decision by defendant Commissioner of Energy and Environmental Protection denying application for individual recycling permit and revoking general permit to operate recycling facility; whether substantial evidence supported hearing officer's finding of pattern or practice of noncompliance by plaintiff with permit requirements, in violation of statute (§ 22a-6m [a]), so as to warrant revocation of general permit registration and denial of application for individual permit; claim that denial of permit application was not warranted even if plaintiff's compliance history demonstrated pattern of noncompliance; whether it was abuse of discretion to deny permit application and revoke general permit registration; claim that trial court improperly upheld defendant's decision because hearing officer failed to apply correct standard of review; claim that hearing officer abused discretion by excluding evidence of prior enforcement actions by Department of Energy and Environmental Protection against other waste facilities; whether trial court's finding that there was no bias on part of administrative adjudicators was clearly erroneous; whether plaintiff overcame presumption that administrative agents acting in adjudicative capacity are not biased.	121
Smith v. Commissioner of Correction. Habeas corpus; ineffective assistance of counsel; pretrial confinement credit; claim that habeas court abused its discretion in denying petition for certification to appeal; whether petitioner failed to meet his burden of proving that there was reasonable probability that, but for trial counsel's allegedly deficient performance during plea proceeding, he would not have accepted plea offer and instead would have gone to trial.	160
Stack v. Hartford Distributors, Inc.	22
Arbitration; whether trial court properly rendered judgment granting application for order to proceed to arbitration regarding termination of plaintiff's employment; claim that termination of plaintiff's employment did not involve dispute arising out of interpretation or enforcement of parties' employment agreement and, therefore, that arbitration provision contained in that agreement was not applicable; claim that employment contract was void and unenforceable; whether issue of validity of employment contract should be considered by arbitrator in first instance where party did not challenge arbitration clause in employment agreement.	
Stanley v . State's Attorney (Memorandum Decision)	901
State v. Andrews (Memorandum Decision) State v. Anthony L. Sexual assault in first degree; risk of injury to child; sexual assault in third degree; whether trial court abused its discretion in permitting state to introduce evidence of defendant's alleged prior uncharged sexual misconduct against victim; whether trial court abused its discretion in determining that probative value of prior uncharged sexual misconduct evidence outweighed prejudicial effect; whether	903 512
evidence was insufficient to summort conviction whether victim testified with	

sufficient specificity so as to permit jury to determine that unlawful conduct defendant engaged in was digital penetration.	
State v. Antwon W. Sexual assault in first degree in violation of statute (§ 53a-70 [a] [1] and [2]); sexual assault in third degree; risk of injury to child; motion to correct illegal sentence; claim that sentencing court improperly relied on inaccurate and unreliable information in sentencing defendant on three counts of sexual assault in first degree under § 53a-70 (a) (1) because sentences were imposed before vacatur, on grounds of double jeopardy, of defendant's conviction of three parallel counts of and associated concurrent sentences for sexual assault in first degree under § 53a-70 (a) (2); whether trial court abused its discretion in denying motion to correct illegal sentence; whether trial court considered conviction of counts under different subdivisions of sexual assault statute separately and distinctly; whether trial court improperly dismissed motion to correct instead of denying motion to correct; whether claim that sentencing court relied on inaccurate information in imposing sentence fell within common-law jurisdiction of court.	668
State <i>v</i> . Blaine	499
Conspiracy to commit robbery in first degree; claim that trial court committed plain error in failing to instruct jury that to find defendant guilty of conspiracy to commit robbery in first degree, it had to find that he intended and specifically agreed that participant in robbery would be armed with deadly weapon; whether record supported claim of plain error; whether it was fairly debatable whether court's instruction as to requisite intent was erroneous; whether any alleged error amounted to manifest injustice and affected fairness and integrity of and public confidence in judicial proceedings so as to necessitate reversal.	
State v. Brown	337
Possession of more than four ounces of marijuana; subject matter jurisdiction; whether trial court lacked jurisdiction to consider merits of petition for writ of error coram nobis; whether trial court improperly denied petition and, instead, should have rendered judgment dismissing petition; whether defendant had prior alternative legal remedies available to him regarding ineffective assistance of counsel claim.	
State v. Bush	108
narcotics; whether trial court abused its discretion when it failed to grant defendant's request to represent himself and suggested that his trial counsel continue to represent him through voir dire; claim that jury was misled by trial court's instructions on conspiracy charge; claim that trial court failed to instruct jury on elements of possession of narcotics and possession of narcotics with intent to sell; claim that trial court failed to instruct jury to determine which of underlying charged crimes defendant had conspired to commit; whether trial court improperly sentenced defendant to twenty years incarceration on conspiracy conviction, where most serious crime of which he was convicted that was proved to have been object of conspiracy carried maximum possible prison sentence of fifteen years; vacation of sentence on conspiracy conviction.	461
State v. Esquilin	461
defendant's right to due process by admitting drug test reports into evidence without requiring state to introduce results through testimony of analysts who performed testing; whether defendant provided adequate record for review of unpreserved claim where record was silent as to state's reasons for not producing drug test analysts as witnesses at probation revocation hearing; whether state had notice of due process claim not raised at trial.	
State v . Fernandez (Memorandum Decision)	905 905
State v. Grant Manslaughter in first degree with firearm; assault in first degree; harmless error; claim that trial court abused its discretion in admitting certain witness' testimony and portions of defendant's statements to police indicating that defendant was involved in sale of drugs; whether admission of subject evidence was harmless; whether defendant demonstrated that admission of subject evidence had significant impact on jury's verdict; claim that trial court abused its discretion in permitting state to elicit testimony from witness that he had observed defendant carrying firearm on prior occasion; whether any alleged error in admission of witness' statement was harmless.	81

State v. Jackson	40
State v. Jin	185
State v. Juarez	588
State v. Latour (Memorandum Decision). State v. Lebrick	907 221
at trial. State v. Manousos. Arson in first degree; whether trial court improperly denied motions to suppress statements defendant made to police and items police seized during investigatory stop and patdown for weapons; claim that police lacked reasonable and articulable suspicion that defendant was involved in criminal activity; claim that patdown of defendant for weapons was improper because totality of circumstances did not support trial court's finding that police reasonably believed that defendant may have been armed and dangerous; whether propriety of investigatory stop and subsequent patdown made it reasonable for police to enlarge scope of search by seizing items defendant was carrying; whether trial court abused its discretion bu convelling defendant to disclose to state prior to trial substance of opinions	310

of expert witness; claim that court's actions impaired defendant's ability to present defense and diluted right to assistance of counsel.	
State v. Montana	261
State v. Mukhtaar	1
Murder; claim that trial court abused its discretion in denying motions to correct illegal sentence and to allow expert witness to testify; claim that defendant's chronological age at time of crime was not representative of mental age; claim that trial court should have applied rationale of Miller v. Alabama (567 U.S. 460) and its progeny to adult defendant whose mental age, at time of crime, was not substantially different from that of juvenile; whether trial court was required under Miller necessarily and expressly to take defendant's mental state into consideration at sentencing where defendant was twenty years old at time of crime; whether defendant set forth colorable claim for relief under Miller; whether trial court lacked subject matter jurisdiction over motion to correct illegal sentence; whether trial court properly denied motion to allow expert testimony.	
State v. Outlaw	345
Assault of public safety personnel; plain error; whether defendant explicitly waived claim that trial court failed to give detailed instruction concerning whether correction officer was acting in performance of duties in alleged use of unnecessary or unreasonable force; whether defendant demonstrated that trial court committed plain error by failing to instruct jury that unwarranted or excessive force by correction officer was not within performance of officer's duties.	
State v. Richard P	676
Sexual assault in fourth degree; risk of injury to child; whether trial court properly	0.0
granted motion to dismiss charges following entry of nolle prosequi as to charges	
after material child witnesses relocated with their mother to London, England, and would not be returning to United States and were beyond reach of state's power to compel their attendance at trial; claim that minor children had "become disabled" within meaning of statute (§ 54-56b); claim that § 54-56b should be	
interpreted to apply in circumstances where material witness is "unavailable"; claim that statutory phrase "has become disabled" should be interpreted to include circumstances in which witness cannot be compelled to testify for reasons that extend beyond physical or mental disability of witness; claim that term "disappeared" in § 54-56b should be defined to mean absence from jurisdiction.	
State v. Salmond	605
Murder; criminal possession of pistol or revolver; whether trial court abused its discretion by allowing witness to make in-court identification of defendant; whether trial court's finding that state had proven reliability of in-court identification by clear and convincing evidence was supported by record; whether any alleged evidentiary error as to in-court identification by witness was harmless; reviewability of unpreserved claim that trial court should have granted request to charge and charged jury that out-of-court identification procedure was not substantive evidence of guilt due to its suggestiveness; whether trial court abused its discretion in denying request for special credibility instruction regarding testimony of witness; whether evidence supported finding that witness was involved in murder so as to warrant accomplice instruction; claim that trial court was required to give special credibility instruction with respect to testimony of witness because witness was akin to jailhouse informant.	005
State v. Stanley (Memorandum Decision)	901
State v. Tucker.	270
Probation; assault in third degree; claim that trial court erred in admitting 911 recording into evidence; claim that trial court erroneously found that defendant violated probation; claim that trial court abused its discretion in imposing sentence of three years incarceration; whether trial court properly overruled objection to admission of 911 recording that was based on lack of foundation for recording; whether trial court properly authenticated 911 recording, whether defendant sustained burden of providing adequate record to review claim of due process violation; whether admission of recording constituted plain error; whether trial court properly found that defendant violated probation; whether	210
trial court abused its discretion in revoking defendant's probation	

State v. Vivo (Memorandum Decision)	906 95
Allegedly improper tax assessment of plaintiff's motor vehicle; subject matter jurisdiction; whether trial court properly dismissed plaintiff's action for lack of subject matter jurisdiction; whether trial court incorrectly determined that statute (§ 12-119) governing applications for relief when property has been wrongfully assessed applied to plaintiff's claim; whether trial court correctly determined that statute (§ 12-117a) governing appeals to Superior Court from municipal boards of assessment appeals applied to plaintiff's claim; whether plaintiff failed to exhaust her available administrative remedies before appealing to Superior Court; claim that plaintiff did not receive notice of defendant's certificate of change and tax assessment in time to challenge assessment.	
U.S. Bank National Assn. v. Christophersen	378
Foreclosure; standing; whether plaintiff had standing to commence foreclosure action; whether plaintiff was holder of subject note and entitled to enforce it at time action was commenced; claim that trial court denied defendant's right to due process and abused its discretion by relying on plaintiff's affidavit of debt in rendering modified judgment of strict foreclosure; whether court failed to consider defendant's concerns over amount of debt; claim that trial court abused its discretion in denying motion for continuance; whether court erred in failing to rule on request for judgment of foreclosure by sale; whether court improperly concluded that it lacked authority pursuant to statute (§ 49-15 [b]) to modify judgment; whether § 49-15 (a) (1) conferred authority on court to modify judgment.	
United Amusements & Vending Co. v. Sabia	555
Valley National Bank v. Private Transerve, LLC	479
Foreclosure; breach of personal guarantees; claim that plaintiff bank did not have standing; claim that genuine issue of material fact existed as to whether plaintiff owned debt when action was commenced; unpreserved claim that action was initiated under improper corporate name; whether defendants established that certain evidentiary rulings at hearing in damages relied on clearly erroneous factual findings or that trial court abused its discretion in granting plaintiff permission to file amended complaint.	
Victor C. v. Commissioner of Correction	706
Walsh Fence, LLC v . Dolceaqua (Memorandum Decision)	904